

**STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS**

ORDER

Application 22870 Permit 115710 License 10565

**ORDER AMENDING THE LICENSE BY
REDUCING ANNUAL AMOUNT, MODIFYING BYPASS TERM,
AND ADDING WATER QUALITY, CONTINUING AUTHORITY, AND
ENDANGERED OR THREATENED SPECIES TERMS**

WHEREAS:

1. License 10565 was issued to Fred B. Galbreath and Jean Galbreath, on January 9, 1976 pursuant to Application 22870 and was recorded with the County Recorder of Mendocino County on January 16, 1976, in Book 1025, Pages 504 thru 505.
2. The Division of Water Rights (Division) conducted an inspection of the project covered by License 10565 on April 27, 1999. This inspection found that the licensee had no satisfactory measuring devices to ensure compliance to existing bypass terms and conditions of the license. In addition, staff determined that a reduction of the annual amount specified for the diversion from Rancheria Creek is necessary because it was incorrectly calculated on a 5-month diversion season, but the allowable season of diversion from Rancheria Creek is only 4 months (June 1 through October 1).
3. The Division has determined that in order to ensure continued compliance with an existing condition of the license requiring bypass of water to protect the Rancheria Creek fishery, an additional term should be added to License 10565.
4. The Division will also add standard terms and conditions regarding the continuing authority of the SWRCB, water quality objectives, and a term to prevent any act which results in the taking of a threatened or endangered species that have been or may be listed under the federal Endangered Species Act and/or the California Endangered Species Act.

NOW, THEREFORE, IT IS ORDERED THAT:

The following terms and conditions are added to License 10565:

1. The authorized annual amount diverted from Rancheria Creek shall be reduced from 86 acre-feet per annum to 70 acre-feet per annum.
2. Licensee shall have the pump on Rancheria Creek tested by a qualified pump testing company every five years or everytime a new pump is installed in order to confirm that the pump capacity does not exceed 0.89 cubic feet per second (cfs). Licensee shall maintain a record of the results of the pump test and shall submit the results with the triennial report of licensee or whenever requested by the Division of Water Rights.
3. The quantity of water diverted under this license is subject to modification by the SWRCB if, after notice to the licensee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the California Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that: (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.
4. Pursuant to California Water Code Sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of the SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

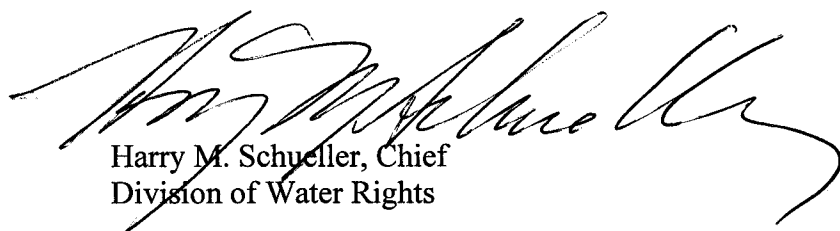
The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this license with a view to eliminating waste of water and to meeting the reasonable water requirements of licensee without unreasonable draft on the source. Licensee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to: (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water

measuring devices to assure compliance with the quantity limitations of this license and to determine accurately water use as against reasonable water requirement for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the licensee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest and is necessary to preserve or restore the uses protected by the public trust.

5. This license does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (California Fish and Game Code Section 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. Sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the licensee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this license.

Dated: **NOV 29 1999**



Harry M. Schueller, Chief
Division of Water Rights

ORDER (06/99)



STATE OF CALIFORNIA
THE RESOURCES AGENCY
STATE WATER RESOURCES CONTROL BOARD
DIVISION OF WATER RIGHTS

License for Diversion and Use of Water

APPLICATION 22870

PERMIT 15710

LICENSE 10565

THIS IS TO CERTIFY, That

FRED B. GALBREATH AND JEAN GALBREATH
P. O. BOX 188, KENTFIELD, CALIFORNIA 94901

HAVE made proof as of JUNE 17, 1974 (the date of inspection)
to the satisfaction of the State Water Resources Control Board of a right to the use of the water of
(1) RANCHERIA CREEK AND (2) SAPHRONIE CREEK IN MENDOCINO COUNTY

tributary to (1) NAVARRO RIVER THENCE PACIFIC OCEAN AND (2) RANCHERIA CREEK
THENCE NAVARRO RIVER THENCE PACIFIC OCEAN

for the purpose of IRRIGATION, DOMESTIC AND STOCKWATERING USES

under Permit 15710 of the Board and that the right to the use of this water has been perfected
in accordance with the laws of California, the Regulations of the Board and the permit terms; that the
priority of this right dates from AUGUST 2, 1967 and that the amount of water to which
this right is entitled and hereby confirmed is limited to the amount actually beneficially used for the stated
purposes and shall not exceed (1) RANCHERIA CREEK - TWENTY-NINE HUNDREDTHS (0.29) CUBIC
FOOT PER SECOND, TO BE DIVERTED FROM JUNE 1 TO OCTOBER 1 OF EACH YEAR. SO LONG AS
IS NO INTERFERENCE WITH OTHER RIGHTS, JUNIOR, AS WELL AS SENIOR, LICENSEE MAY INCR
HIS RATE OF DIVERSION TO A MAXIMUM OF 0.74 CUBIC FOOT PER SECOND; PROVIDED THAT TH
QUANTITY DIVERTED IN ANY 30-DAY PERIOD DOES NOT EXCEED 17.2 ACRE-Feet. THE MAXIMU
AMOUNT DIVERTED UNDER THIS LICENSE FROM RANCHERIA CREEK SHALL NOT EXCEED 86 ACRE-F
PER YEAR, AND (2) SAPHRONIE CREEK - TWELVE THOUSAND FIVE HUNDRED (12,500) GALLONS
DAY, TO BE DIVERTED FROM MAY 1 TO OCTOBER 1 OF EACH YEAR FOR IRRIGATION, DOMESTIC,
STOCKWATERING USES, AND TWO THOUSAND SEVEN HUNDRED (2,700) GALLONS PER DAY FROM OC
OF EACH YEAR TO MAY 1 OF THE SUCCEEDING YEAR FOR DOMESTIC AND STOCKWATERING PURPOS
SO LONG AS THERE IS NO INTERFERENCE WITH OTHER RIGHTS, JUNIOR, AS WELL AS SENIOR,
LICENSEE MAY INCREASE HIS RATE OF DIVERSION TO A MAXIMUM OF 0.028 CUBIC FOOT PER
SECOND; PROVIDED THAT THE TOTAL QUANTITY DIVERTED IN ANY 30-DAY PERIOD FOR IRRIGAT
USE DOES NOT EXCEED 0.9 ACRE-FOOT AND THE TOTAL QUANTITY DIVERTED IN ANY 7-DAY PER
FOR DOMESTIC USE SHALL NOT EXCEED 3,500 GALLONS. THE MAXIMUM AMOUNT DIVERTED UNDE
THIS LICENSE FROM SAPHRONIE CREEK SHALL NOT EXCEED 5.7 ACRE-Feet PER YEAR.

THE POINTS OF DIVERSION OF SUCH WATER ARE LOCATED:

- (1) SOUTH 1,000 FEET AND EAST 100 FEET FROM NW CORNER OF SECTION 13, T12N, R13W,
MDB&M, BEING WITHIN NW1/4 OF NW1/4 OF SAID SECTION 13 AND
- (2) SOUTH 1,400 FEET AND EAST 4,300 FEET FROM NW CORNER OF SECTION 13, T12N,
R13W, MDB&M, BEING WITHIN NW1/4 OF NW1/4 OF SAID SECTION 13 AND

- (2) DOMESTIC, STOCKWATERING AND IRRIGATION OF 1.2 ACRES WITHIN NE1/4 OF NE1/4 OF SECTION 14, T12N, R13W, MDB&M.

UPON A JUDICIAL DETERMINATION THAT THE PLACE OF USE UNDER THIS LICENSE OR A PORTION THEREOF IS ENTITLED TO THE USE OF WATER BY RIPARIAN RIGHT, THE RIGHT SO DETERMINED AND THE RIGHT ACQUIRED UNDER THIS PERMIT SHALL NOT RESULT IN A COMBINED RIGHT TO THE USE OF WATER IN EXCESS OF THAT WHICH COULD BE CLAIMED UNDER THE LARGER OF THE TWO RIGHTS.

LICENSEE SHALL BYPASS, AT THE RANCHERIA CREEK DIVERSION SITE, ALL WATER FLOW IN EXCESS OF 0.89 CUBIC FOOT PER SECOND FROM APRIL 1 TO OCTOBER 31 OF EACH YEAR, FOR THE PROTECTION AND MAINTENANCE OF FISHLIFE.

Licensee shall allow representatives of the Board and other parties, as may be authorized from time to time by the Board, reasonable access to project works to determine compliance with the terms of this license.

All rights and privileges under this license, including method of diversion, method of use and quantity of water diverted are subject to the continuing authority of the Board in accordance with law and in the interest of the public welfare to prevent waste, unreasonable use, unreasonable method of use or unreasonable method of diversion of said water.

[illegible]

Reports shall be filed promptly by licensee on appropriate forms which will be provided for the purpose from time to time by the Board.

The right hereby confirmed to the diversion and use of water is restricted to the point or points of diversion herein specified and to the lands or place of use herein described.

This license is granted and licensee accepts all rights herein conferred subject to the following provisions of the Water Code:

Section 1625. Each license shall be in such form and contain such terms as may be prescribed by the Board.

Section 1626. All licenses shall be under the terms and conditions of this division (of the Water Code).

Section 1627. A license shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code) but no longer.

Section 1628. Every license shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a license is issued takes the license subject to the conditions therein expressed.

Section 1629. Every licensee, if he accepts a license does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any license granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any licensee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any licensee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Section 1630. At any time after the expiration of twenty years after the granting of a license, the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State shall have the right to purchase the works and property occupied and used under the license and the works built or constructed for the enjoyment of the rights granted under the license.

Section 1631. In the event that the State, or any city, city and county, municipal water district, irrigation district, lighting